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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,660	01/15/2004	John G. Fischer	JGF 02775 PTUS	5884
32233	7590	10/04/2007	EXAMINER	
STORM LLP			AMINI, JAVID A	
BANK OF AMERICA PLAZA				
901 MAIN STREET, SUITE 7100				
DALLAS, TX 75202				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,660

Applicant(s)

FISCHER, JOHN G.

Examiner

Javid A. Amini

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed 7/19/2007 have been fully considered but they are not persuasive.

In response to applicant's argument on page 7 that:

- a. "Purdy does not disclose or describe association of the animated files with numeric ranges", Purdy clearly illustrates in fig. 3c association of the animated files (e.g., refs.# 50A-E) with numeric ranges (e.g., 56A-E i.e. shown -1.1 thru 6.9)
- b. "Purdy does not disclose or describe solving for a contest value between first and second product values of different products", the following response has been repeated in the previous rejection: Purdy in fig. 3B illustrates or at col. 5 lines 16-22 teaches determining a first product value, e.g., starting price of stock 1 from data source 20 representing a first product's performance; determining a second product value, e.g., current price of stock 1 from data source 20 representing a second product's performance; Purdy in fig. 3C illustrates another example of how a plurality of animated objects may be displayed and solving for a contest value by selecting a graphical object for percent changes.
- c. "Purdy does not disclose or describe selecting an animated graphic file by association of the numeric range and the contest value". The following response has been repeated again: Purdy clearly illustrates in fig. 3c association of the animated files (e.g., refs.# 50A-E) with numeric ranges (e.g., 56A-E i.e. shown -1.1 thru 6.9)

Examiner's note: the intended use of the claimed invention must result in a structural difference between the claimed invention and the Purdy in order to patentably distinguish the claimed invention from the Purdy. If the Purdy structure is capable of performing the intended use, then it meets the claim. The question that Applicant requires to be clear is as follows: What are the structural differences between the claimed invention (e.g., claim 1) and Purdy's invention e.g., fig. 3C?

In response to applicant's argument on page 7 that Purdy is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The prior art Purdy is anticipated the claim limitations in the present invention, see fig. 3C i.e. self explanatory.

Applicant argues there is no anticipation of this by the Purdy, and the present invention is directed to a method for selecting an animated graphic file by mathematical relationship between predetermined product values representing product performances.

In response to applicant's argument that the references fail to show "an animated graphic file by mathematical relationship ..." of applicant's invention, it is noted that the features upon which applicant relies (i.e., mathematical relationship) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument on page 8 that the reference does not associate selecting animated graphic files for different product values. With respect to Purdy's fig. 3C refs.# 50B and 50A are considered different product values.

The applicant's arguments on pages 8-9 are repeated and the Examiner's response is similar to what responded in previous paragraphs.

In response to applicant's argument on page 9 that the reference does not solve for a contest value. Purdy in fig. 3A clearly illustrates a contest value by showing different colors e.g., see col. 5 lines 40-63.

The applicant's arguments on page 10 are repeated.

In response to applicant's argument on page 11 that the reference fails to disclose selecting a graphic file based on a contest value. Purdy in e.g., fig. 3C ref.# 50B illustrates a data 2 i.e. the first product is the start number (i.e. 39 not shown) and the second product is the current number (i.e. 42 shown as 54B) and the difference is shown as number 3 ref.#56B, and the graphic file is shown as 50B that represents a positive trend.

The applicant's arguments on page 12 are repeated.

Examiner's comment: for the above reasons, it is believed that the rejections should be sustained.

Examiner's suggestion: Applicant may be considered amending the claim limitations, because they do not clearly point out the patentable novelty of the current invention. Also encourages Applicant to schedule an interview.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Purdy, patent number US 6,191,799 B1.

Claim 1,

Examiner's interpretation of the claim invention with respect to claim 1: the differences between two or more products, e.g. first data, second data and ..., can be display by graphical objects, e.g. animated contest, an icon, text message, or etc.

Purdy at col. 1, lines 53-55 teaches a method of displaying competitive product performance data, comprising: providing a plurality of animated graphic files; Purdy at col. 2 lines 8-13 teaches associating a plurality of the animated graphic files with numeric ranges (Examiner's interpretation: it's inherent that market trading data contains numeric ranges); Purdy in fig. 3B illustrates or at col. 5 lines 16-22 teaches determining a first product value, e.g., starting price of stock 1 from data source 20 representing a first product's performance; determining a second product value, e.g., current price of stock 1 from data source 20 representing a second product's performance; Purdy in fig. 3C illustrates another example of how a plurality of animated objects may be displayed and solving for a contest value by selecting a graphical object for percent changes, e.g. 50A, 50B, 50C, 50D, and 50E (numerical ranges) between the first product value

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and the second product value, by selecting an; Purdy at col. 7 lines 64-66 teaches selecting an animated graphic file associated with the numeric range which includes the contest value; and, displaying the selected animated contest, see fig. 3C.

Claims 3, and 4

Purdy at col. 3 lines 26-30 teaches information available from an Internet web site (i.e., a server connected to the Internet, which has mass storage facilities for storing hypertext documents and which runs administrative software for handling those hypertext documents).

Claim 5,

Purdy at col. 10 line 35 shows an equation that teaches said claim limitation of a contest value between the first product value (i.e. a current value) to the second product value (i.e. starting value) further comprises dividing the first product value by the second product value.

Claims 6-7,

Purdy at col. 7 lines 36-37 teaches that the maximum percentage change in data is derived from historical performance of the data.

Claim 8,

Purdy in fig. 3B illustrates the results on a numerical scale and in fig. 3C observes qualitative test results.

Claim 9,

Purdy in fig. 3C illustrates as an animated graphic 50C.

Claims 10-13,

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Purdy in fig. 3A and col. 5 lines 28-30 teaches the propeller 30 rotates about its center axis at a rate which is indicative of the percentage change in stock price between the starting price of the stock and the current price of the stock.

Independent claims 11-14 are rejected with the same rational as in claim 1 rejection.

Re. claim 13, on page 7 recites “resolving for a mathematical contest value” Purdy in fig. 3B illustrates an animated object that represents a contest value using a mathematical equation. The claim language of “first product value” is similar to starting price of a stock and claim language “second product value” is similar to the current price of the stock. The percentage changes illustrate the contest value of the two prices. For the above reasons claims 11-12, and 14 are rejected the same rational as the claim 1 rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javid A. Amini whose telephone number is 571-272-7654. The examiner can normally be reached on 8-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Javid A Amini
Examiner
Art Unit 2628

J.A.



KEE M. TUNG
SUPERVISORY PATENT EXAMINER